

**REMARKS**

Claims 1-27 were pending in the application. Claim 1 has been amended. Support for amended claim 1 can be found throughout the application as originally filed. For example, amended claim 1 is supported by original claims 4-9. Claim 3 has been canceled without prejudice, thus rendering moot the objection to claim 3. Claims 15-20 have been canceled as they are being drawn to a non-elected invention. Applicants maintain the right to file the canceled claims in another application. No new matter has been added. Upon entry of this amendment, claims 1, 2, 4-14, 21-27 will be pending.

**I. The Claimed Invention Is Novel**

Claims 1-2 and 11 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Qureshi *et al.*, J. Exp. Med., 189 (4): 615-625 (1999) (hereinafter, the “Qureshi reference”). The Office Action alleges that the Qureshi reference anticipates the claims because it discloses an oligonucleotide primer to TLR4. Office Action at page 5.

The standard for anticipation under §102(b) is one of strict identity. An anticipation rejection requires a showing that each element of a claim be found in a single reference. *Atlas Powder Co. v. E.I. DuPont de Nemours & Co.*, 224 U.S.P.Q. 409, 411 (Fed. Cir. 1984). The Qureshi reference does not anticipate amended claim 1 and its dependent claims 2 and 11 because the reference does not disclose all the elements of the claimed compounds. For example, amended claim 1 recites that the claimed compounds comprise at least one modified base. The Qureshi reference, however, fails to report any modified oligonucleotide, much less any modified nucleobase. Since the Qureshi reference does not teach an oligonucleotide compound comprising the modified nucleobase as recited in of claim 1, the reference fails to anticipate claim 1 (and dependent claims 2 and 11). Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. §102(b) be withdrawn.

Claims 1-2, 4-6, 11 and 12 are rejected under 35 U.S.C. §102 (b) as allegedly being anticipated by Lorenz *et al.*, WO 00/77204 (hereinafter, the “Lorenz reference”). The rejection over the Lorenz reference should have been made under 35 U.S.C. §102 (a), because the

publication date of the Lorenz reference (December 21, 2000) is less than one year prior to the filing date of the present application (November 19, 2001).

Since the rejection over the Lorenz reference is under 35 U.S.C. §102 (a), Applicants are entitled to submit a Declaration to establish priority over the Lorenz reference. As such, Applicants are submitting herewith a Declaration under 37 C.F.R. 1.131 to establish that the claimed subject matter of the present application was prior to that of the publication date of the Lorenz reference.<sup>1</sup> Accordingly, the Lorenz reference should be removed from consideration as prior art against the present application, and Applicants respectfully request that the rejections under 35 U.S.C. §102 be withdrawn.

## **II. The Claimed Invention Is Not Obvious**

### **A. The Lorenz, Monia and Taylor references**

Claims 1, 2, 4-14 and 21-27 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over the Lorenz reference in view of Monia *et al.* (US Patent No 6,114,517, hereinafter “the Monia reference”) and Taylor *et al.* (DDT 4(12):562-567 (1999), hereinafter “the Taylor reference”). As discussed above, the Lorenz reference cannot be considered as prior art against the present application. The removal of the Lorenz reference as prior art renders moot the rejection under 35 U.S.C. §103(a), since the Office Action cited the Lorenz reference as the primary reference. Further, the Office would not be able to establish a *prima facie* case of obviousness against the present claims by citing the Monia reference by it self, or in combination with the Taylor reference, because these references do not even disclose a Toll-like receptor 4 of the present claims. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. §103.

## **III. The Claims Are Fully Described By The Specification**

Claims 1, 2, 4-14 and 21-27 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. The Office Action alleges

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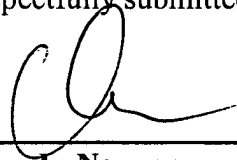
<sup>1</sup> The Declaration submitted herewith is unexecuted. Applicants will be submitting an executed Declaration following this Response.

that the specification does not describe all forms of TLR4. However, the Office admits that the “specification as filed describes the structures of compounds targeting human TLR4 according to SEQ ID NO: 3” Applicants respectfully disagree that the specification only describes compounds that target TLR4 according to SEQ ID NO:3. However, for the sole purpose of facilitating prosecution, claim 1 has been amended to clarify that the compound is targeted to a nucleic acid molecule encoding TLR4 of SEQ ID NO: 3. Since the Office Action admits that TLR4 of SEQ ID NO: 3 is adequately described, the amended claim 1 renders the rejection moot.

**IV. Conclusion**

Applicant believes the claims are in condition for allowance. An early Notice of Allowance is therefore earnestly solicited. Applicant invites the Examiner to contact the undersigned at (215) 665-2158 to clarify any unresolved issues raised by this response.

Respectfully submitted,



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